THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION No.11735 of 1999

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DATED : 15.06.2006

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Between:

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APSRTC, rep., by its Managing Director,

Mushirabad, Hyderabad.

…. **Petitioner**

And:

State Transport Appellate Tribunal,

A.P., Hyderabad, rep., by its Presiding Officer,

and others.

… **Respondents**

ORDER:

This writ petition is filed by the Andhra Pradesh State Road Transport Corporation, questioning the order, dated 15.03.1999, passed by the first respondent-State Transport Appellate Tribunal, Andhra Pradesh, Hyderabad (STAT) in A.P.No.331 of 1998 thereby setting aside the order dated 18.04.1998, passed by the second respondent-Regional Transport Authority, Kakinada.

The third respondent herein made an application for grant of pucca stage carriage permit to ply on the Kakinada new Town service route from J.Ramaraopeta to Santhanapuri colony. The said application was rejected by the second respondent, by resolution dated 18.04.1998 on the ground that the route in question was overlapping on the notified route, approved in G.O.Ms.No.782/72, which prohibits grant of permit and overlapping. Aggrieved by the same, the third respondent preferred an appeal before the STAT. The said appeal was allowed by an order dated 15.03.1999, thereby setting aside the order of the second respondent with a direction to issue stage carriage permit, as town service from J.K.Pur bridge to Santhanapuri colony, i.e., a modified route. Questioning the said order of the STAT, the Corporation has come up with this writ petition.

I have heard the learned Standing Counsel appearing for the Corporation, Sri

K.Srinivasa Rao, and the learned counsel appearing for the third respondent as well as the learned Government Pleader appearing for respondents 1 and 2.

The learned Standing Counsel primarily contended that the STAT was not justified in directing to issue permits on a modified route. The learned Standing Counsel pointed out that as per Section 72(1) of the Motor Vehicles Act, 1988 (for short "the Act") no permit can be granted in respect of any area which is not specified in the application.

Learned Standing Counsel has also brought to my notice that an identical question was considered in W.P.Nos.25570 and 25578 of 1999 and this Court allowed the said writ petitions by order dated 02.01.2003 holding that an application for modification made under Section 72(1) of the Act cannot be automatically entertained and accepted though the STAT has ample powers to permit modification of the route, provided the route in respect of which modification is asked was originally applied for. Accordingly, the matters were remitted to the STAT to give an opportunity to both the parties and dispose of the same in accordance with the observations made in the said order.

Learned counsel for the petitioner does not dispute the fact that the issue involved in this writ petition is squarely covered by the ratio laid down in the above decision.

Learned counsel further submitted that keeping in view that the matter requires consideration on several factual aspects, it would be appropriate to remand the matter back to the Regional Transport Authority for consideration afresh.

Accordingly, following the order in W.P.Nos.25570 and 25578 of 1999, the writ petition is allowed and the impugned order passed by the first respondent-STAT, dated 15.03.1999, as well as the order passed by the second respondent-Regional Transport Authority, dated 18.04.1998, are hereby set aside. The second respondent is hereby directed to consider the request of the third respondent afresh after hearing both the parties and pass appropriate orders in accordance with law, as

expeditiously as possible, preferably within a period of eight (8) weeks from the date of receipt of this order. In case the third respondent herein is holding stage carriage permit, he shall be allowed to run the buses in accordance with law, till then. No costs.

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15.06.2006

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